

## § 418.92

### § 418.92 Condition of participation— Physical therapy, occupational therapy, and speech-language pa- thology.

(a) Physical therapy, occupational therapy, and speech-language pathology services must be—

(1) Available, and when provided, offered in a manner consistent with accepted standards of practice; and

(2) Furnished by personnel who meet the qualifications specified in part 484 of this chapter.

(b)(1) If the hospice engages in laboratory testing outside of the context of assisting an individual in self-administering a test with an appliance that has been cleared for that purpose by the FDA, such testing must be in compliance with all applicable requirements of part 493 of this chapter.

(2) If the hospice chooses to refer specimens for laboratory testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties of services in accordance with the applicable requirements of part 493 of this chapter.

[57 FR 7135, Feb. 28, 1992, as amended at 72 FR 66405, Nov. 27, 2007]

### § 418.94 Condition of participation— Home health aide and homemaker services.

Home health aide and homemaker services must be available and adequate in frequency to meet the needs of the patients. A home health aide is a person who meets the training, attitude and skill requirements specified in § 484.36 of this chapter.

(a) *Standard: Supervision.* A registered nurse must visit the home site at least every two weeks when aide services are being provided, and the visit must include an assessment of the aide services.

(b) *Standard: Duties.* Written instructions for patient care are prepared by a registered nurse. Duties include, but may not be limited to, the duties specified in § 484.36(c) of this chapter.

[48 FR 56026, Dec. 16, 1983, as amended at 55 FR 50835, Dec. 11, 1990]

## 42 CFR Ch. IV (10–1–08 Edition)

### § 418.96 Condition of participation— Medical supplies.

Medical supplies and appliances including drugs and biologicals, must be provided as needed for the palliation and management of the terminal illness and related conditions.

(a) *Standard: Administration.* All drugs and biologicals must be administered in accordance with accepted standards of practice.

(b) *Standard: Controlled drugs in the patient's home.* The hospice must have a policy for the disposal of controlled drugs maintained in the patient's home when those drugs are no longer needed by the patient.

(c) *Standard: Administration of drugs and biologicals.* Drugs and biologicals are administered only by the following individuals:

(1) A licensed nurse or physician.

(2) An employee who has completed a State-approved training program in medication administration.

(3) The patient if his or her attending physician has approved.

(4) Any other individual in accordance with applicable State and local laws. The persons, and each drug and biological they are authorized to administer, must be specified in the patient's plan of care.

### § 418.98 Condition of participation— Short term inpatient care.

Inpatient care must be available for pain control, symptom management and respite purposes, and must be provided in a participating Medicare or Medicaid facility.

(a) *Standard: Inpatient care for symptom control.* Inpatient care for pain control and symptom management must be provided in one of the following:

(1) A hospice that meets the condition of participation for providing inpatient care directly as specified in § 418.100.

(2) A hospital or an SNF that also meets the standards specified in § 418.100 (a) and (e) regarding 24-hour nursing service and patient areas.

(b) *Standard: Inpatient care for respite purposes.* Inpatient care for respite purposes must be provided by one of the following:

(1) A provider specified in paragraph (a) of this section.

(2) An ICF that also meets the standards specified in §418.100 (a) and (e) regarding 24-hour nursing service and patient areas.

(c) *Standard: Inpatient care limitation.* The total number of inpatient days used by Medicare beneficiaries who elected hospice coverage in any 12-month period preceding a certification survey in a particular hospice may not exceed 20 percent of the total number of hospice days for this group of beneficiaries.

(d) *Standard: Exemption from limitation.* Until October 1, 1986, any hospice that began operation before January 1, 1975 is not subject to the limitation specified in paragraph (c).

[48 FR 56026, Dec. 16, 1983, as amended at 55 FR 50835, Dec. 11, 1990]

**§418.100 Condition of participation  
Hospices that provide inpatient  
care directly.**

A hospice that provides inpatient care directly must comply with all of the following standards.

(a) *Standard: Twenty-four-hour nursing services.* (1) The facility provides 24-hour nursing services which are sufficient to meet total nursing needs and which are in accordance with the patient plan of care. Each patient receives treatments, medications, and diet as prescribed, and is kept comfortable, clean, well-groomed, and protected from accident, injury, and infection.

(2) Each shift must include a registered nurse who provides direct patient care.

(b) *Standard: Disaster preparedness.* The hospice has an acceptable written plan, periodically rehearsed with staff, with procedures to be followed in the event of an internal or external disaster and for the care of casualties (patients and personnel) arising from such disasters.

(c) *Standard: Health and safety laws.* The hospice must meet all Federal, State, and local laws, regulations, and codes pertaining to health and safety, such as provisions regulating—

(1) Construction, maintenance, and equipment for the hospice;

(2) Sanitation;

(3) Communicable and reportable diseases; and

(4) Post mortem procedures.

(d) *Standard: Fire protection.* (1) Except as otherwise provided in this section—

(i) The hospice must meet the provisions applicable to nursing homes of the 2000 edition of the Life Safety Code of the National Fire Protection Association. The Director of the Office of the Federal Register has approved the NFPA 101® 2000 edition of the Life Safety Code, issued January 14, 2000, for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy of the Code is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269. If any changes in this edition of the Code are incorporated by reference, CMS will publish notice in the FEDERAL REGISTER to announce the changes.

(ii) Chapter 19.3.6.3.2, exception number 2 of the adopted edition of the LSC does not apply to a hospice.

(2) In consideration of a recommendation by the State survey agency, CMS may waive, for periods deemed appropriate, specific provisions of the Life Safety Code which, if rigidly applied would result in unreasonable hardship for the hospice, but only if the waiver would not adversely affect the health and safety of the patients.

(3) The provisions of the adopted edition of the Life Safety Code do not apply in a State if CMS finds that a fire and safety code imposed by State law adequately protects patients in hospices.

(4) Beginning March 13, 2006, a hospice must be in compliance with Chapter 9.2.9, Emergency Lighting.

(5) Beginning March 13, 2006, Chapter 19.3.6.3.2, exception number 2 does not apply to hospices.

(6) Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a hospice may place